

In re) Fair Hearing No. 16,001
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Appeal of)
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The petitioner appeals a decision by the Department of Social Welfare denying her application for Medicaid and VHAP benefits based on excess family income.

1. The petitioner and her husband have no health benefits. The petitioner has income, before taxes, of \$1,118.70 per month from her employment.¹ Her husband has social security disability income through the U.S. Railroad Retirement Board of \$684 per month.

2. On March 1, 1999, the petitioner applied for Medicaid and VHAP benefits for herself and her husband. On May 24, 1999, the petitioner was notified that she and her husband would be ineligible for Medicaid due to excess income until they met a spend-down amount. On May 25, 1999, they were both denied VHAP due to excess income.

3. For purposes of their Medicaid eligibility, the

¹ The petitioner reported at hearing that she makes \$6.73 per hour from her full-time (40 hours per week employment). By the hearing officer's calculation, that amounts to a monthly before taxes income of \$1157.56 per month (\$6.73 x 40 hours x 4.3 weeks per month). However since the lower figure used by the Department in its calculations is more favorable to the petitioner, it will be adopted as her monthly amount for purposes of this appeal.

Department gave the petitioner a \$591.85 deduction from earned income based on the presence of a disabled person in the household and a \$20 deduction from the husband's unearned income. The resultant figure, \$1,190.85, was compared with the maximum for a two family household of \$691 per month and the petitioner was determined to be over income. The difference between those two figures was used to establish the spend-down amount.

4. For purposes of VHAP eligibility, the income of both spouses was added together for a total of \$1,802.70 which was determined to be over the maximum amount of \$1,383.

5. The petitioner believes the calculations were incorrect because they use the couple's gross income, not their take-home amounts, and because they do not take into account the large prescription costs her husband has every month which can run well over a hundred dollars.

RORDER

The decision of the Department is affirmed.

REASONS

The Medicaid regulations count both gross earned income and disability benefits in determining eligibility subject to certain deductions found in the regulations. M 240 et seq. Net countable income is determined for an applicant

couple (where at least one member of the couple is disabled) by adding the total countable incomes together and subjecting the unearned income to a \$20.00 disregard and the earned income to a \$65.00 disregard and then one-half of the remaining amount. M243.1. There is no regulation which takes into account the amount of medical expenses when determining initial eligibility.

The calculations above show that the Department followed this regulation in determining the petitioner's net countable income of \$1,190.85 per month. That figure is then compared to the highest applicable income test for a household of two to determine eligibility. M. 250. The highest applicable income test for the petitioner's household is \$691.00 per month, rendering the petitioner's family ineligible. P-2420(B)(1). However, under the regulations, the petitioner can still become eligible if she meets a "spend-down" amount. That amount is determined by taking the monthly income in excess of the maximum income test and multiplying it by the six month certification period. M250.1. The Department used this formula in calculating the petitioner's income.

The VHAP program similarly uses the combined gross earned income from wages and unearned income from railroad social security to determine eligibility. W.A.M. 4001.81. The earned income is subjected to a \$90 disregard before eligibility is determined. W.A.M. 4001.81(e). There are no

regulations granting deductions for medical expenses. The remaining income is compared with the VHAP maximum which is 150% of the poverty line. W.A.M. 4001.84. The current maximum for a family of two under VHAP is \$1,383.

P-2420(B)(6). The petitioner's family's income is in excess of that income so she cannot be found eligible for VHAP. As the Department's determinations in both the Medicaid and VHAP program are consistent with its regulations, they must be upheld by the Board. 3 V.S.A. 3091(d), Fair Hearing Rule 17.

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